

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re Refco, Inc. Securities Litigation

07 MDL 1902 (JSR)

This document applies to:

MARC S. KIRSCHNER,
As Trustee of the Refco Private Actions Trust,

07 Civ. 8165 (JSR)

Plaintiff,

-VS-

PHILLIP R. BENNETT, SANTO C. MAGGIO,
ROBERT C. TROSTEN, MAYER, BROWN LLP,
MAYER BROWN INTERNATIONAL LLP,
and GRANT THORNTON LLP,

Defendants.

GRANT THORNTON LLP,

Defendant/Third-Party Plaintiff,

-VS-

THOMAS H. LEE PARTNERS, L.P.;
THL EQUITY ADVISORS V, LLC;
THL MANAGERS V, LLC;
THOMAS H. LEE EQUITY FUND V, L.P.;
THOMAS H. LEE PARALLEL FUND V, L.P.,
THOMAS H. LEE EQUITY (CAYMAN) FUND
V, L.P., THOMAS H. LEE; DAVID V. HARKINS;
SCOTT L. JAECKEL; and SCOTT A SCHOEN,

SPECIAL MASTER HEDGES' INTERIM ORDER ON A PROPOSED BELLWETHER TRIAL

Third-Party Defendants.

WHEREAS, counsel for Marc S. Kirschner, as Trustee of the Refco Private Actions Trust (the "Trustee") and counsel for Grant Thornton LLP ("Grant Thornton") in the above-captioned action appeared telephonically on June 8, 2011 before Special Master Hedges in regard to the May 27, 2011 letter requested by the Special Master and submitted by the Trustee and Grant Thornton concerning the potential of conducting a "bellwether" trial in this action based on the testimony of a sub-set of the FX Customers and Grant Thornton's pending motion to compel,

SPECIAL MASTER HEDGES, for good cause shown, hereby enters the following interim order:

1. On or before June 24, 2011, the Trustee shall provide to Grant Thornton a certification for each of the four previously identified FX customer entities,¹ either:
 - i. from counsel to the FX customer entities, certifying that any and all documents responsive to each of the Trustee's four Customer Notices have been produced, or
 - ii. from counsel to the Trustee indicating that such a certification was timely requested and no additional documents were provided.
2. Absent exigent circumstances, the Trustee will be barred from using any document not produced or made available for inspection prior to the date of the deposition of the FX customer entity to which the document pertains, including but not limited to consideration of, reliance upon, or review by an expert witness or use at trial.
3. These four FX Customers entities shall be deposed on or before August 1, 2011. The Trustee has advised the Special Master that the Cargill entities are being subpoenaed and

¹ These FX Customers, which were previously identified pursuant to the Special Master's April 1, 2011 Order, are: (i) Cargill (including Cargill Financial Services Corp., Cargill Global Funding PLC, Cargill In., and any additional FX Customers that were transferred to Refco Capital Markets, Ltd. by Cargill); (ii) Lyxor Estlander & Ronnlund Ltd. and Lyxor/Beach Discretionary Fund Ltd.; (iii) Creative Finance Ltd.; and (iv) Stilton International Holdings Ltd.


shall advise the Special Master if the Cargill entities do not agree to appear for deposition on or before August 1, 2011.

4. The Trustee's expert report concerning damages shall be provided to Grant Thornton on or before August 30, 2011.
5. Counsel for the Trustee shall provide the Special Master with transcripts of the FX Customer depositions and the Trustee's expert report on damages.
6. Upon receipt of the materials set forth in the preceding paragraph, the Special Master will advise the parties whether he wishes to hold an additional conference prior to the status conference to be held with the Special Master and Judge Rakoff at the omnibus hearing date currently scheduled for September 14, 2011.
7. This is an interim order. No determination has been made as to whether additional FX Customers must be made available for deposition or whether a "bellwether" trial will be held.

SO ORDERED

Washington DC
Dated: New York, NY

6/14, 2011



Ronald Hedges
Special Master